

**ENVIRONMENTAL COVENANT AGREEMENT**  
**RE: PROPERTY OWNED BY SINGATSE PEAK SERVICES, LLC**  
**AT THE ANACONDA MINE SITE**  
**ENTERED PURSUANT TO NEV. REV. STAT. §§ 445D.010 – 445D.220**

SINGATSE PEAK SERVICES, LLC (“Grantor”) this 1<sup>st</sup> day of February, 2016, grants this Environmental Covenant and Agreement (“Covenant and Agreement”) to the State of Nevada Department of Conservation and Natural Resources, Division of Environmental Protection (“Holder” or “NDEP”), and to the United States of America acting by and through the United States Environmental Protection Agency (“EPA”) as Third Party Beneficiary of this Covenant and Agreement, hereinafter collectively referred to as the “Parties” or individually as a “Party.” This Covenant and Agreement is entered into by the Parties pursuant to the Uniform Environmental Covenants Act, Nev. Rev. Stat. §§ 445D.010 through 445D.220.

**RECITALS**

WHEREAS, Grantor is the owner of certain real property located at the Anaconda mine site (“Site”) in Lyon County, Nevada, referred to herein as the “Property.” The Property is legally described on Exhibit A to the Purchase and Sale Agreement regarding the Property, which is attached hereto as Appendix 1 and incorporated herein by reference;

WHEREAS, Nevada Revised Statutes sections 445D.010 through 445D.220, inclusive, titled “The Uniform Environmental Covenants Act,” expressly provide for the entry and enforcement of and set forth the requirements for executing and recording environmental covenants and related agreements running with the land;

WHEREAS, under the oversight of NDEP and EPA, the Site and Property are the subject of an environmental response project, as defined by Nev. Rev. Stat. § 445D.070 (the “Response Project”), which is being conducted pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq*;

WHEREAS, Grantor represents that it is a bona fide prospective purchaser with respect to the Property, as defined by Section 101(40) of CERCLA, 42 U.S.C. § 9601(40), and has

complied and will continue to comply with the requirements in Section 101(40) and Section 107(r)(1), 42 U.S.C. 9607(r)(1), during its ownership of the Property;

WHEREAS, entry into this Covenant and Agreement is consistent with and in furtherance of Grantor's obligations under Section 101(40) of CERCLA, 42 U.S.C. § 9601(40);

WHEREAS, Grantor has taken and may continue to take steps towards developing the Property for use for mineral exploration, mining, and mineral processing; and by entering into this Covenant and Agreement, Grantor does not intend to limit or preclude its legal right to so use the Property except as specifically set forth herein;

WHEREAS, the purpose of this Covenant and Agreement is to limit the use of and the type of activities permitted on the Property; and

WHEREAS, Grantor desires to subject the Property to certain covenants and restrictions as provided in the Uniform Environmental Covenants Act, which covenants and restrictions shall burden the Property and bind Grantor and all parties having any right, title, or interest in the Property, or any part thereof, their heirs, successors, and assigns, and any persons using the land, as described herein, for the benefit of the Holder and Third Party Beneficiary.

## **COVENANT AND AGREEMENT**

THEREFORE, pursuant to the Uniform Environmental Covenants Act, Grantor hereby grants this Covenant and Agreement to Holder, and declares that the Property described in Appendix 1 shall hereinafter be bound by, held, sold, leased, transferred, or conveyed subject to the activity and use limitations, access agreements, and all other conditions stated in this Covenant and Agreement, which shall run with the Property in perpetuity and be binding on the Grantor and all parties having any right, title, or interest in the Property. As used in this Covenant and Agreement, the term "Owner" means the record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1. **Third Party Beneficiary.** EPA is the Third Party Beneficiary of this Covenant and Agreement. All of the rights and interests of the Holder under this Covenant and Agreement are for the benefit of EPA as a third party beneficiary, and EPA shall have the right, as a third party beneficiary, to enforce the terms of this Covenant and Agreement.
2. **Activity and Use Limitations.** Unless modified in accordance with paragraph 5, the Property shall be subject to the following activity and use limitations:
  - A. Prohibited Uses. Grantor and/or Owner promise to restrict the use of the Property as follows, unless Grantor and/or Owner receives prior written approval from NDEP and EPA:

- i. No residence for human habitation shall be permitted on the Property, including, but not limited to mobile homes or factory-built housing that is used for human habitation;
    - ii. No hospitals, care facilities for children or Senior Citizens, or school for persons under 21 years of age are permitted on the Property;
    - iii. Owner shall not drill, construct or use a well for the purpose of extracting water for bathing, food production or preparation, or human consumption.
  - B. Mining Activities. This Covenant and Agreement does not prohibit future mineral exploration, mineral development, mining, mineral processing and all mining-related support activities on the Property.
3. **Access Agreements.** The NDEP shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the NDEP may otherwise have to enter and inspect the Property. In addition, SPS granted rights of access to NDEP (Access Agreement for the State of Nevada Department of Conservation and Natural Resources, Division of Environmental Protection dated August 13, 2013) and to EPA (Consent to Access to Property for the United States Environmental Protection Agency dated April 8, 2011). Any access by NDEP to the Property shall be in compliance with the Agreement Between The Nevada Division of Environmental Protection and Singatse Peak Services dated even herewith.
4. **Provisions to Run With the Land.**
- A. Each and all of the Activity and Use Limitations and Access Agreements shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof.
  - B. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, lease, or possession to be subject to and in accord with this Covenant and Agreement and to agree for and among themselves, and their successors, that the Activity and Use Limitations and Access Agreements herein established must be adhered to and that their interest in the Property shall be subject to the Activity and Use Limitations and Access Agreements contained herein.
5. **Modifications and Termination.** This Covenant and Agreement runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph or the Uniform Environmental Covenants Act. Owner may request that the Holder approve a modification or termination of this Covenant and Agreement. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Holder shall review any submitted information and may request additional information. No modification or

termination of the Covenant and Agreement shall be effective unless the Holder has approved such a modification or termination in writing, including an explanation of its decision. Information to support a request for modification or termination may include one or more of the following:

- A. a proposal to perform additional remedial actions;
  - B. new information regarding the risks posed by residual contamination;
  - C. information demonstrating that residual contamination has diminished;
  - D. information demonstrating that the proposed modification would not adversely impact the Response Project and is protective of human health and the environment, or that Owner will assume responsibility for and perform any additional response actions needed to prevent or abate such adverse impact; and
  - E. other appropriate supporting information.
6. **Notice to Lessees.** Owner agrees to incorporate either in full or by reference the restrictions in this Covenant and Agreement in any leases, licenses, or other instruments granting a right to use any portion of the Property.
7. **Recording.** In accordance with Nev. Rev. Stat. § 445D.170, Grantor will record this Covenant and Agreement in the county recorder's office of Lyon County, the county in which the entire Property is located.
8. **No Liability.** NDEP does not acquire any liability under State law by virtue of accepting this Covenant and Agreement. Owner does not acquire any liability or obligation under Local, State or Federal law, or any other jurisdiction, by virtue of granting this Covenant and Agreement other than that which is specifically stated herein.
9. **Enforcement.** Pursuant to Nev. Rev. Stat. § 445D.200, all parties to this Covenant and Agreement shall have standing to enforce the Activity and Use Limitations and Access Agreements contained herein. EPA shall also have standing to enforce the Activity and Use Limitations and Access Agreements contained herein.
10. **Administrative Record.** A copy of the administrative record related to the Site may be found at the Lyon County Library, Central Branch, 20 Nevin Way, Yerington, Nevada 89447, and at the United States Environmental Protection Agency, Region 9 Office, 75 Hawthorne Street, San Francisco, California 94105.
11. **Severability.** If all or any portion of any of the provisions of this Covenant and Agreement shall be declared invalid, illegal, or unenforceable by laws applicable thereto, then the performance of said offending provision or provisions shall be excused by the parties hereto and such invalidity, illegality, or unenforceability shall not affect any other provision of this Covenant and Agreement.

12. **Governing Law.** This Covenant and Agreement shall be governed by and construed in accordance with the laws of the State of Nevada.
13. **Notices.** Any development or activity that would reasonably be expected to disturb soil, surface water, or groundwater at or near the Property, requires notice to NDEP. Any documentation or communication required under this Covenant and Agreement shall be sent or directed to:

Nevada Department of Conservation and Natural Resources  
Division of Environmental Protection  
Chief of the Bureau of Corrective Actions  
901 South Stewart Street, Suite 4001  
Carson City, NV 89701-5249

ATTN: Jeff Collins, Bureau Chief

And to

United States Environmental Protection Agency Region IX  
Superfund Division  
75 Hawthorne Lane  
San Francisco, CA 94105

ATTN: David Seter, Remedial Project Manager

The parties have caused this Covenant and Agreement to be executed this \_\_ day of \_\_\_\_, 2016.

**SINGATSE PEAK SERVICES, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE STATE OF NEVADA,  
DEPARTMENT OF CONSERVATION  
AND NATURAL RESOURCES,  
DIVISION OF ENVIRONMENTAL  
PROTECTION**

By: \_\_\_\_\_  
Name: David Emme  
Title: Administrator

STATE OF NEVADA                    )  
  ) ss.  
COUNTY OF LYON                    )

The foregoing instrument was acknowledged before me the \_\_\_\_ day of \_\_\_\_\_, 2016 by \_\_\_\_\_, as \_\_\_\_\_ of SINGATSE PEAK SERVICES, LLC.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Address

My commission expires: \_\_\_\_\_

STATE OF NEVADA                    )  
  ) ss:  
COUNTY OF CARSON CITY \_\_\_\_\_)

This instrument was acknowledged before, \_\_\_\_\_ a Notary Public, by DAVID EMME, Administrator of THE STATE OF NEVADA, DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, DIVISION OF ENVIRONMENTAL PROTECTION, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public for said County and State  
Commission Expires: \_\_\_\_\_

# **Appendix 1**

## **(Legal Description of Property)**